

Message Text

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TREASURY:MFELDMAN

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R 012311Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY ROME

AMEMBASSY LONDON

AMEMBASSY BONN

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AMEMBASSY THE HAGUE

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AMEMBASSY KUALA LUMPUR

AMEMBASSY TEL AVIV
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AMEMBASSY BUENOS AIRES
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USMISSION EC BRUSSELS
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AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: ETRD

SUBJECT: FOREIGN PRODUCT STANDARDS AND CERTIFICATION
SYSTEMS

1. BACKGROUND: AN IMPORTANT U.S. OBJECTIVE IN MTN IS
NEGOTIATION OF INTERNATIONAL CODE OF CONDUCT COVERING
PRODUCT STANDARDS, TEST METHODS AND QUALITY ASSURANCE
(CERTIFICATION) PROCEDURES. IN 1973, A DRAFT GATT
CODE OF CONDUCT FOR PREVENTING TECHNICAL BARRIERS TO TRADE
WAS COMPLETED BY WORKING GROUP OF KEY GATT DELEGATIONS
INCLUDING U.S. MAY 1975 MEETING OF NTM SUBGROUP ON
TECHNICAL BARRIERS TO TRADE AGREED TO USE DRAFT CODE AS
BASIS FOR NEGOTIATIONS. MOST DELEGATIONS FAVORED EXPEDI-
TIOUS HANDLING AND EARLY COMPLETION OF CODE. SUBGROUP
MEETING REVEALED SEVERAL PROBLEM AREAS. ONE MAJOR ISSUE
WAS CONCERN ON PART OF SOME DELEGATIONS THAT COUNTRIES
WOULD ASSUME DIFFERENT LEVELS OF OBLIGATIONS UNDER CODE.
THERE IS CLEAR NEED FOR MORE INFORMATION ON HOW STANDARDS
AND CERTIFICATION SYSTEMS ACTUALLY WORK IN PRINCIPAL
DEVELOPED AND DEVELOPING COUNTRIES. ASSISTANCE OF ACTION
POSTS IN SEEKING ANSWERS TO QUESTIONS CONTAINED IN PARA. 5
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WILL BE VERY HELPFUL TO USDEL IN PREPARING FOR NEXT NTM
SUBGROUP MEETING SCHEDULED FOR SEPTEMBER 22.

2. GATT DRAFT CODE: OVERALL INTENTION OF DRAFT CODE IS
TO PROMOTE INTERNATIONAL HARMONIZATION OF PRODUCT
STANDARDS, AND MUTUAL ACCEPTANCE OF TESTING AND QUALITY
ASSURANCE PROCEDURES. POST SHOULD BE AWARE THAT PORTIONS
OF DRAFT CODE REQUIRE THAT MANDATORY CENTRAL GOVERNMENT
STANDARDS, TEST METHODS AND CERTIFICATION PROCEDURES
(COVERING INDUSTRIAL AND AGRICULTURAL PRODUCTS, AND PACK-
AGING AND LABELING REGULATIONS RELATING TO PRODUCTS) NOT
RESULT IN TECHNICAL BARRIERS TO TRADE (NTB'S). CODE

REQUIRES NOTIFICATION, AND CONSULTATION IN DEVELOPING STANDARDS AND EQUAL TREATMENT OF DOMESTIC AND FOREIGN PRODUCTS WITH RESPECT TO STANDARDS ADOPTED. SIMILAR PROVISIONS APPLY TO MANDATORY STATE AND LOCAL GOVERNMENT STANDARDS AND TO VOLUNTARY STANDARDS, OFTEN WRITTEN BY PRIVATE BODIES, BUT IN THESE CASES GOVERNMENTS REQUIRED TO USE ONLY "BEST EFFORTS" TO ENSURE COMPLIANCE. CODE ALSO 1) ENCOURAGES ADOPTION OF INTERNATIONAL STANDARDS, 2) ENCOURAGES PARTICIPATION IN INTERNATIONAL CERTIFICATION ARRANGEMENTS, 3) LAYS DOWN RULES FOR REGIONAL STANDARDS ARRANGEMENTS TO ENSURE THAT THEY DO NOT RESTRICT TRADE OF THIRD COUNTRIES, 4) CALLS FOR COUNTRIES TO PROVIDE TECHNICAL AND OTHER ASSISTANCE TO LDC'S, 5) CALLS FOR MODIFICATION OF EXISTING STANDARDS CONSIDERED TO HAVE NTB EFFECTS (RETROACTIVE PROVISIONS) AND 6) CONTAINS MEASURES FOR SETTLEMENT OF DISPUTES INCLUDING SANCTIONS. THE CODE STILL CONTAINS MANY SECTIONS IN BRACKETS.

3. DEFINITIONS: FOLLOWING DEFINITIONS MAY ASSIST POSTS IN DEVELOPING DATA.

... (A) STANDARD: TERM "STANDARD" MEANS ANY SPECIFICATION, RULE, REGULATION, CODE OR LAW WHICH LAYS DOWN SOME OR ALL PROPERTIES OF A PRODUCT IN TERMS OF QUALITY, PURITY, NUTRITIONAL VALUE, PERFORMANCE, DIMENSIONS, OR OTHER CHARACTERISTICS, INCLUDING, WHERE APPLICABLE, TEST METHODS, AND SPECIFICATIONS CONCERNING TESTING, PACKAGING, MARKING OR LABELING TO EXTENT THEY EFFECT PRODUCTS RATHER THAN PROCESSES. THE TERM NORMALLY EXCLUDES STANDARDS WHICH ARE PREPARED FOR USE BY SINGLE ENTERPRISES OR BODIES, LIMITED OFFICIAL USE
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EITHER FOR ITS OWN PRODUCTION OR PURCHASING PURPOSES.

... (B) QUALITY ASSURANCE BODY: AN ORGANIZATION OR PERSON, GOVERNMENTAL OR NON-GOVERNMENTAL, INDEPENDENT OF THE PRODUCER OR SUPPLIER, WHICH PROVIDES ASSURANCES THAT PRODUCTS CONFORM TO THE STANDARD IN QUESTION OR INFORMATION ON WHICH A DECISION AS TO CONFORMITY WITH THE STANDARD CAN BE TAKEN.

... (C) QUALITY ASSURANCE SYSTEM: A FORMAL ARRANGEMENT HAVING ITS OWN RULES OR PROCEDURE AND MANAGEMENT UNDER

WHICH ONE OR MORE QUALITY ASSURANCE BODIES PROVIDE AN ASSURANCE THAT PRODUCTS APPROVED OR CERTIFIED UNDER THE SYSTEM CONFORM TO THE REQUIREMENTS OF THE STANDARD IN QUESTION.

4. POSTS REQUESTED DEVELOP AND REPORT BY AIRGRAM OR CABLE IF NECESSARY FULLEST POSSIBLE ANSWERS TO QUESTIONS IN PARA 5 BELOW BY AUGUST 15. STANDARDS CODE IDENTIFIED BY KEY

DELEGATIONS AS ONE AREA WHERE EARLY PROGRESS IN MTN SHOULD BE POSSIBLE. USG ATTACHES CONSIDERABLE IMPORTANCE TO EARLY AGREEMENT. INFORMATION REQUESTED WILL BE VERY HELPFUL TO U.S. NEGOTIATING EFFORTS. EMBASSIES SHOULD USE OWN DISCRETION CONCERNING BEST SOURCES OF INFORMATION. IN ADDITION TO REVIEW OF PUBLISHED MATERIAL, DEPARTMENT BELIEVES BEST RESULTS WILL BE ACHIEVED BY CONTACTING SEVERAL SOURCES INCLUDING GOVERNMENT AGENCIES, NATIONAL STANDARDS BODIES, PRINCIPAL PRIVATE OR INDUSTRY ORGANIZATIONS ENGAGED IN WRITING VOLUNTARY STANDARDS, ETC. RECOGNIZE THIS WILL BE MAJOR JOB AND THAT COMPLETE ANSWERS MAY NOT BE POSSIBLE IN TIMEFRAME ESTABLISHED. INTERIM PARTIAL RESPONSES WILL BE USEFUL.

5. QUESTIONS:

.. A. STANDARDS

... 1) LIST CENTRAL GOVERNMENT AGENCIES OR NON-GOVERNMENT NATIONAL STANDARDS BODIES RESPONSIBLE FOR DEVELOPING AND ENFORCING MANDATORY NATIONAL STANDARDS. (E.G. BRITISH LIMITED OFFICIAL USE
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STANDARDS INSTITUTION--ISO). IS THERE ONE CENTRAL AGENCY WHICH COORDINATES ACTIVITIES OF ALL MANDATORY STANDARDS MAKING AGENCIES? IS SO, PROVIDE NAME. DOES THIS AGENCY CONTAIN LIST OF ALL MANDATORY STANDARDS AND ADMINISTRATIVE PROCEDURES GOVERNING THEIR APPLICATION?

... 2) PROVIDE TOTAL NUMBER OF BEST ESTIMATE OF NATIONAL MANDATORY STANDARDS CURRENTLY IN FORCE, BROKEN DOWN WHEREVER POSSIBLE ACCORDING TO MAJOR PRODUCT CATEGORIES (E.G. ELECTRICAL PRODUCTS, NON-ELECTRICAL EQUIPMENT, RADIO-ACTIVE SUBSTANCES, COMMUNICATIONS EQUIPMENT, FOOD AND DRUG PRODUCTS, HAZARDOUS MATERIALS, TRANSPORTATION EQUIPMENT, ENVIRONMENTAL REGULATIONS AFFECTING PRODUCTS, BUILDING MATERIALS, AGRICULTURAL, MEAT AND POULTRY PRODUCTS, ETC).

... 3) WHAT PERCENTAGE OF NATIONAL MANDATORY STANDARDS CURRENTLY IN EFFECT ARE BASED ON INTERNATIONAL STANDARDS DEVELOPED BY SUCH INTERNATIONAL ORGANIZATIONS AS INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO), INTERNA-

TIONAL ELECTRO-TECHNICAL COMMISSION (IEC), OR THE CODEX ALIMENTARIUS COMMISSION? (I.E. MANDATORY STANDARDS WHICH ARE EQUIVALENT TO INTERNATIONAL STANDARDS OR CONTAIN ONLY MINOR MODIFICATIONS.) WHERE APPLICABLE, TO WHAT EXTENT HAVE REGIONAL STANDARDS, E.G. THOSE OF THE EUROPEAN COMMITTEE ON STANDARDIZATION (CEN) OR THE EUROPEAN COMMITTEE FOR ELECTRO-TECHNICAL STANDARDS (CENELEC) BEEN

USED AS THE BASIS FOR NATIONAL MANDATORY STANDARDS.

... 4) DESCRIBE ADMINISTRATIVE PROCEDURES FOR DEVELOPING NATIONAL MANDATORY STANDARDS. FOR EXAMPLE, DO PROCEDURES ALLOW FOR ADVANCE PUBLICATION AND COMMENTS BY ALL INTERESTED PARTIES, FOREIGN AND DOMESTIC? WHAT TIME PERIOD IS USUALLY ALLOWED FOR COMMENTS? WHAT IS USUAL TIME PERIOD BETWEEN APPROVAL AND IMPLEMENTATION?

... 5) DO STATE AND LOCAL MUNICIPAL AUTHORITIES ENGAGE IN WRITING MANDATORY STANDARDS? APPROXIMATELY HOW MANY SUCH ENTITIES ARE ENGAGED IN WRITING MANDATORY STANDARDS? HOW MANY MANDATORY STANDARDS WRITTEN BY THESE BODIES LIMITED OFFICIAL USE
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EXIST, BROKEN DOWN WHERE POSSIBLE ACCORDING TO MAJOR PRODUCT CATEGORY (RE. PARA. 4(A)(2).)?

... 6) LIST MAJOR INSTITUTIONS WRITING VOLUNTARY STANDARDS (E.G. CENTRAL GOVERNMENT AGENCIES, STATE AND LOCAL GOVERNMENTS, NON-GOVERNMENTAL ORGANIZATIONS INCLUDING PRIVATE ORGANIZATIONS NOT MEMBERS OF NATIONAL STANDARDS BODIES).

... 7) HOW MANY VOLUNTARY STANDARDS EXIST, BROKEN DOWN WHEN POSSIBLE ACCORDING TO A) INSTITUTIONS WRITING STANDARDS, AND B) MAJOR PRODUCT CATEGORY. WHERE APPLICABLE WHAT PERCENTAGE OF EXISTING VOLUNTARY NATIONAL STANDARDS ARE BASED ON INTERNATIONAL STANDARDS SUCH AS THOSE OF ISO AND IEC AND REGIONAL STANDARDS BODIES SUCH AS CEN AND CENELEC. WHERE APPLICABLE DESCRIBE EXTENT TO WHICH VOLUNTARY NATIONAL STANDARDS BECOME MANDATORY BY USER REQUIREMENTS FOR COMPLIANCE, SUCH AS BY A LOCAL GOVERNMENT REFERENCING A VOLUNTARY STANDARD IN ITS REGULATIONS.

.. B. TESTING AND QUALITY ASSURANCE PROCEDURES

... 1) WHERE MANDATORY CENTRAL GOVERNMENT STANDARDS EXIST, DESCRIBE PRINCIPLE ADMINISTRATIVE PROCEDURES INVOLVED IN TESTING AND QUALITY ASSURANCE SYSTEMS INCLUDING WHETHER NATIONAL TREATMENT IS ACCORDED. IN PARTICULAR, A) DOES GOVERNMENT ACCEPT ASSURANCES FROM FOREIGN SUPPLIERS THAT THEIR PRODUCTS CONFORM TO NATIONAL

STANDARDS?, B) DOES THE GOVERNMENT ACCEPT ASSURANCES OF CONFORMITY FROM QUALITY ASSURANCE BODIES IN COUNTRY OF THE FOREIGN EXPORTER?, C) DOES THE GOVERNMENT ALLOW TESTS TO BE CARRIED OUT IN THE COUNTRY OF THE FOREIGN EXPORTER?, D) WHERE QUALITY ASSURANCE SYSTEMS EXIST, LIST GOVERNMENT AGENCIES OR PRIVATE INSTITUTIONS AUTHORIZED TO CERTIFY

CONFORMITY WITH MANDATORY STANDARDS, E) WHAT ARE THE
POLICIES OF SUCH QUALITY ASSURANCE BODIES WITH REGARD TO
TESTING AND/OR CERTIFICATION IN THE EXPORTING COUNTRY?,
F) IS THE GOVERNMENT WILLING TO ENTER INTO RECIPROCAL
AGREEMENTS ALLOWING FOR TESTING AND/OR CERTIFICATION IN
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THE COUNTRIES OF THE FOREIGN SUPPLIERS?, G) CITE ANY
EXAMPLES OF SUCH RECIPROCAL AGREEMENTS, H) WHERE TESTING
AND/OR CERTIFICATION IS NOT ALLOWED IN COUNTRY OF FOREIGN
EXPORTER, ARE IMPORTED PRODUCTS ACCEPTED FOR TESTING UNDER
CIRCUMSTANCES NO LESS FAVORABLE THAN THOSE ACCORDED TO
SIMILAR DOMESTIC PRODUCTS (E.G. WITH RESPECT TO COMPLEX-
ITY OF ADMINISTRATION REQUIREMENTS, FEES, CONVENIENT LOCA-
TION OF TESTING FACILITIES, ETC.)?

... 2) WHERE MANDATORY STANDARDS ARE WRITTEN BY STATE
AND LOCAL GOVERNMENTS DESCRIBE POLICIES OF THESE ENTITIES
REGARDING TESTING AND/OR CERTIFICATION PROCEDURES OF
FOREIGN PRODUCTS.

... 3) SIMILARLY, DESCRIBE TESTING, QUALITY ASSURANCE
PROCEDURES IN EFFECT WITH RESPECT TO VOLUNTARY STANDARDS
AS PER PARAS. B(1) AND B(2) ABOVE.

.. C. AUTHORITY

... 1) STATE WHETHER ALL STANDARDS WRITING, WHETHER
MANDATORY OR VOLUNTARY, IS DONE BY A GOVERNMENT AGENCY OR
AGENCIES.

... 2) WHAT AUTHORITY (DE JURE OR DE FACTO) WOULD THE
CENTRAL GOVERNMENT HAVE IN EFFORTS TO ENFORCE COMPLIANCE
WITH PROVISIONS OF THE CODE OVER SO-CALLED "NON-
GOVERNMENTAL NATIONAL STANDARDS BODIES" WHICH ARE PRIVATE
BUT OFTEN RECEIVE GOVERNMENT SUBSIDIES AND ARE FREQUENTLY
RECOGNIZED AS "OFFICIAL" STANDARDS ORGANIZATIONS. IF
SUBSIDIES ARE GIVEN BY GOVERNMENT, WHAT DEGREE OF INFLU-
ENCE DOES GOVERNMENT NORMALLY EXERCISE IN POLICY MATTERS,
INCLUDING AREAS NOT DIRECTLY RELATED TO AREA SUBSIDIZED.

... 3) WHAT LEGAL AUTHORITY DOES THE CENTRAL GOVERNMENT
HAVE OVER STATES AND LOCAL GOVERNMENTS WRITING MANDATORY
OR VOLUNTARY STANDARDS? FOR EXAMPLE, DOES THE CENTRAL
GOVERNMENT HAVE AUTHORITY TO INVALIDATE MANDATORY

STANDARDS WRITTEN BY LOCAL GOVERNMENTS? MUST LOCAL
GOVERNMENT STANDARDS COMPLY WITH NATIONAL STANDARDS?
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CITE ANY EXAMPLES OF TRADE BARRIERS AND DISPUTES ARISING
FROM MANDATORY LOCAL GOVERNMENT STANDARDS.

6. FOR WARSAW AND PRAGUE: WE UNDERSTAND ALL NATIONAL
STANDARDS ARE MANDATORY IN POLAND AND CZECHOSLOVAKIA.
THEREFORE POSTS NEED ONLY RESPOND TO 5(A)(2), 5(A)(3),
5(A)(4) AND 5(B)(1).

7. FOR BUENOS AIRES: RECOGNIZE YOUR RESOURCES MAY BE
STRAINED AT PRESENT, BEST EFFORTS WILL BE APPRECIATED. INGERSOLL

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